IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

LETTERS PATENT APPEAL NO.220 OF 1996

Dattaram Dhondu More ..Appellant

Versus

Shri S.S. Hirurkar Member, Industrial

Court, Bombay & Anr. ..Respondents

Ms. N.D. Buch, for the Appellant

CORAM: F.I. REBELLO & ANOOP V. MOHTA,JJ.

DATE : 13th August,2004

P.C.

This Appeal is directed against the judgment of the learned Single Judge dated 18th June, 1996 whereby the learned Single Judge dismissed the appeal on the ground that the impugned order is equitable.

2. At the hearing of this Appeal on behalf of the appellant learned Counsel points out that the services of the petitioner were terminated without holding any enquiry. The Industrial Court in the reference made on behalf of the Appellant workman had made an award on 20th November, 1995 whereby the relief of reinstatement was rejected and it was directed to pay ex-gratia

payment equivalent to retrenchment compensation at the rate of their last drawn salary of January, 1982 till 5th February, 1991. This is the order which was not interfered with by the learned single Judge of this Court. The learned Counsel further contends that once the learned Industrial Court came to the conclusion that the petitioner's services were illegally terminated the relief of reinstatement was refused merely on the ground that there was a BIFR scheme as can be seen from paragraph 15. The learned Counsel points out that immediately after the judgment of 20th November, 1995 an order came to be passed by BIFR on 11th December, 1995 holding that the company has ceased to be a sick industrial company and its case is no longer required to be dealt with by BIFR. It is, therefore, submitted that it cannot be said that the order refusing reinstatement can be sustained. From the records of the writ petition it appears that subsequent to the order passed the Industrial Court the order passed by B.I.F.R. was not placed for consideration before the learned single Judge. In view of that and the subsequent event, impugned order of 18th June, 1996 is set aside and the matter is remanded back to the learned single Judge for reconsideration of the petitioner's case along with the employees listed at Annexure "A" to the petition. In other words for hearing the petition on its own merits.

3. At the time when the Appeal was admitted on 24th December, 1996 the respondents were directed to pay the amount as directed by the Tribunal.

The learned Counsel points out that after several attempts including two contempt petitions the amounts have been paid. That amount would be subject to any order that will be passed finally in Writ Petition NO.307 of 1996. Appeal stands disposed off. No order as to costs.

5. Considering that the petition is of the year 1996 the learned single Judge to consider if a request is made by the parties to dispose of the matter as expeditiously as possible.

Parties to act on authenticated copy of this order.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA, J.)